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The ITT Affair: Anything But the Truth

From the very beginning of the Senate Judiciary hearings on the ITT affair, there has been a lamentable tendency to veer off on tangents leading nowhere in particular—to head up into what Senate Minority Leader Hugh Scott would call "dry creeks." First there was the morbid fascination with Mrs. Dita Beard, who has turned out to be the least reliable of witnesses. Yet her testimony was allowed for a time to become an absolute necessity. Now we have the same thing being said of Mr. Peter Flanigan, who first refused and now has agreed to testify, while the White House mumbled in the meantime about the sanctity of executive privilege. The White House was wise to get off that wicket, for the argument, conveyed in a letter to the committee from John W. Dean III, counsel to the President, that Mr. Flanigan could not testify by reason of "long established and fundamental principle of our federal system" was by way of being a confession that Mr. Nixon was himself involved in the ITT affair. If Mr. Flanigan had not been advising the President on the particular matter at issue, there could have been no recourse to the doctrine of executive privilege by any reading of past precedent that we can find, because that doctrine—or that part of it which would apply to the ITT case—is rooted, in the confidentiality of relations *between the President and his White House staff*. So the White House, having reconsidered the politics—if not the principle—at stake, was well advised to turn around and give in to Senator Ervin and others on this score.

But to proceed from this White House capitulation to the conclusion that the testimony of Mr. Flanigan can close the case is to over-value the role of any one individual in this highly complex and sophisticated affair; to overlook the degree of delicacy by which such sensitive dealings between the government and big business are conducted; and to put more faith in the official version of the way the ITT case was handled than is justified by even the most cursory reading of the record now available.

We know, to begin with, what Mr. Flanigan will say, because Mr. Dean's letter told the committee in advance by way of trying to demonstrate that there was no need for him to testify. He will say that he was asked by Mr. Richard McLaren, then head of the antitrust division, to recruit Mr. Richard Ramsden, a private financial expert, to write an independent opinion about the financial and economic implications of the ITT antitrust suits—that he was a "conduit" and nothing else. But if he follows Mr. Dean's script, he will also add that he (Mr. Flanigan) *"did not directly or indirectly contribute to the findings and conclusions of the independent expert* (Mr. Ramsden)." And right at that point we will be up against this recurrent problem of credence, because on this particular point there is already sharply contradictory testimony from no less an authority than Mr. Ramsden. Just one week after the committee received Mr. Dean's letter, Mr. Ramsden testified under oath that when he met with Mr. Flanigan, before preparing his report, he was handed a memorandum on the ITT case which he said helped him "focus" on the issues involved; although the memorandum bore no identifying markings, it turned out to have been prepared by ITT Director Felix Rohatyn, who figured in a series of meetings with then Deputy Attorney General Richard Kleindienst, whose nomination to be Attorney General is the issue formally before the Judiciary Committee. Without quibbling over words, we would submit that this amounted, in rather a large way, to "contributing" indirectly—at the very least —"to the findings and conclusions of the independent expert."

You could argue, of course, that this doesn't matter much, except for the fact that Mr. McLaren himself has put such importance on the Ramsden report—that, and the hard fact that Mr. Kleindienst began his own account of the process which led to an out-of-court settlement of the ITT case by saying it was *"handled and negotiated exclusively"* by Mr. McLaren.

This has been the story of the ITT affair from the start: the official denials and assertions have been too sweeping, too pat; too many essentials have been sloughed off or left out; in short, we have been getting, in the official version, something less—or something other—than the whole truth. And that is why it is idle to suppose that Mr. Flanigan's testimony will clear up much of anything. Still less can it be argued that the matter could then be laid to rest because, by Mr. Flanigan's appearance the issue of executive privilege would have been resolved—because executive privilege is not what the ITT affair is all about.

It is about an elaborate process which caused Mr. McLaren to abandon his stated intention to press the ITT cases right up to the Supreme Court and to settle out of court—a process both subtle and intricate, which plainly involved high executives of ITT and high officials of the government. It is about the many contacts that took place, and how it all worked out in the way that ITT, at a certain stage, wanted it to work. It is, broadly speaking, about the way a large corporation brings influence to bear upon government, and about how government responds and what role was played in this particular affair by Mr. Kleindienst, and what this tells us about his reliability and integrity, and fitness to be Attorney General.

We would not argue that hearing from at least three more White House aides and some other outside witnesses and resummoning some earlier witnesses, such as Mr. Kleindienst, would clarify everything—though every bit helps. We would simply argue that the mere appearance of Mr. Flanigan, and one or two other witnesses, would still leave the Senate Judiciary Committee and the American people with anything but the whole truth.